

CHAPTER 1

**GENERAL LICENSE PROVISIONS**

SECTION:

- 3-1- 1: Definitions
- 3-1- 2: License Assessor and Collector
- 3-1- 3: Business License Required; Penalty
- 3-1- 4: Classification of Licenses
- 3-1- 5: Application for License
- 3-1- 6: License Fee
- 3-1- 7: Payment Dates
- 3-1- 8: Renewal of License; Complaints
- 3-1- 9: Contents of Certificate of License
- 3-1-10: Display Certificate of License
- 3-1-11: Transfer of License Prohibited
- 3-1-12: Branch Establishments
- 3-1-13: Joint Business Licenses
- 3-1-14: Reciprocal Recognition; Delivery of Goods
- 3-1-15: Exemptions to License
- 3-1-16: Revocation or Denial of License
- 3-1-17: Repealed

3-1-1: **DEFINITIONS:** As used in this Title:

**BUSINESS:** Includes all activities engaged in within the City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided.

**EACH SEPARATE PLACE OF BUSINESS:** Each separate establishment or place of operation, whether or not operating under the same name, within the City, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at wither retail or wholesale, or both, in the City.

**EMPLOYEE:** The operator or manager of a place of business and any persons employed in the operation of said place of business in any capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.

**ENGAGING IN BUSINESS:** Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of

personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

**MATERIAL OFFSITE IMPACTS:**

The following offsite impacts, when combined with the primary residential use, are considered material offsite impacts:

- A. Traffic created by customers. Six (6) customers per day or (30) per week.
- B. Delivery and pick up vehicles. Vehicles that are larger than those normally servicing residential neighborhoods (including but not limited to semi tractors/trailers).
- C. Employees. Employs persons that consistently work onsite, but do not reside at the home.
- D. Vehicle Parking. Customer and employee parking that consistently exceeds the driveway capacity and two street side spaces.

**WHOLESALE:**

A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

**WHOLESALE:**

A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale. (1977 Code ' 9-111; 1998 Code)

**3-1-2: LICENSE ASSESSOR AND COLLECTOR:** The City Recorder is designated and appointed as ex officio assessor of license fees for the City. On receipt of any application for a license, the City Recorder shall assess the amount due thereon and shall collect all license fees based upon the rate established by resolution. He/she shall enforce all provisions of this Title, and shall cause to be filed complaints against all persons violating any of provisions of this Title. (1977 Code ' 9-113; 1998 Code)

**3-1-3: BUSINESS LICENSE REQUIRED; PENALTY:** It shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any person to transact, engage in or carry on any business, trade, profession, calling or to operate a vending, pinball or coin-operated machine without first receiving the class or type of license required by the City. (1977 Code ' 9-112)

- A. Exception to Business License Required. Pursuant to Utah Code 10-1-203(7) a license or permit is not required for a business that is operated:
  - 1. Only occasionally; and
  - 2. By and individual who is under 18 years of age

**3-1-4 CLASSIFICATION OF LICENSES:** Businesses within the City shall be classified as one of four (4) types, based upon the description contained in the application, or the decision of the City Council. These

four (4) types shall be:

- A. Conforming Use Business: A legal business activity which is carried on within the City at a location and in a manner which is in conformance with all applicable zoning regulations, building, health and safety codes, and is a permitted use for that zone.
- B. Nonconforming Use Business: A business activity which was lawful prior to the adoption, revision, or amendment of the Zoning Title, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the Zoning Title.
- C. Child Care: A person providing child care, as that term is defined in Utah Code Annotated, section 26-39-102, and possessing the license required by the Utah Child Care Licensing Act. Providence City also requires all daycare providers and pre-schools to obtain a “voluntary” license from the State.
- D. Home Business:
  - 1. A business conducted on land containing the primary dwelling or an adjacent parcel owned by the same owner;
  - 2. Business owner must be a resident of the primary dwelling;
  - 3. May employ family members residing in the primary dwelling;
  - 4. May employ no more than four (4) individuals that do not reside in the primary dwelling but work at the premises;
  - 5. Provide sufficient parking and needed facilities for employees and customers completely and entirely on homeowner’s land containing the primary dwelling or an adjacent parcel owned by the homeowner
  - 6. Does not change the aesthetic character of the area and zone;
  - 7. No commercial display, other than an unlighted nameplate sign (see Chapter 15 of this Title), which is two (2) square feet in area or less;
  - 8. Must comply with Title 3 Chapter 4 of this Code;
  - 9. Home businesses are subject to all licensing, inspections, laws and regulations, etc
    - a. Exception to license fee. See Sections 6 and 15 of this Chapter.

**3-1-5 APPLICATION FOR LICENSE:**

- A. Contents: All applications for license shall include:
  - 1. The name of the person desiring a license.
  - 2. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on.
  - 3. The class of license desired, if such licenses are divided into classes.
  - 4. The place where such business, calling, trade or profession is to be carried on, giving the street number if the business, calling, trade or profession is to be carried on in any building or

enclosure having such number.

5. The period of time for which such license is desired to be issued. (1977 Code ' 9-116)

6. For child care, home occupations and home businesses, the applicant must inform neighbors of desired purpose and obtain signatures from neighbors stating they have informed them. (1998 Code)

B. Coin-Operated Machine or Device: In the event that the license application relates to a coin-operated machine or device, the application shall identify the machine or device to which it applies and the location thereof. (1977 Code ' 9-116)

3-1-6: **LICENSE FEE:** There is hereby imposed and levied a tax on the business, location, trade, calling or profession on all persons engaged in business within the City. The tax shall be as set by resolution of the City Council. (1977 Code ' 9-211; 1998 Code)

A. Exception to Business License Fee. Pursuant to Utah Code 10-1-203(7) a license or permit is not required for a home business unless the combined offsite impact of the home based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.

3-1-7: **PAYMENT DATES:** All license fees, except Residential Solicitation license fees, shall be due and payable as follows, except as may be otherwise provided:

A. Payable: Annual fees shall be payable before each calendar year, in advance. The annual license shall date from January 1 of each year and shall expire on December 31 of each year. All businesses may be notified thirty (30) days before expiration (December 1). Annual fees may not be paid more than 60 days prior to the expiration date.

B. Due: Annual fees shall be due on January 1 of each calendar year and shall become delinquent if not paid prior to February 1 of each year. If the annual fee is paid prior to the expiration (December 31), the fee shall be reduced by 10%.

C. Penalty for Late Payment: If any license fee is not paid by January 31, a penalty of fifty percent (50%) of the amount of such license fee shall be added to the original amount thereof. If a license fee is not paid by the last day of February, the total license fees due at the time shall be doubled. If any license fee is not paid by March 31, a new application must be filed with the application fee and any and all late fees. The business license will be subject to all City, state, and/or federal codes and any other applicable rules and regulations in effect as of the date the new application is filed.

D. Applications After July 1: One-half (½) of the annual fee shall be payable for all licenses issued by the City pursuant to applications made after July 1 of each year; licenses issued after July 1 shall expire on January 1 of the following year. Payment shall be due upon the date of application approval, and shall be received prior to issuance of business license. (Ord. 95-9-000.1, 11-14-1995; 1998 Code)

1. Exception. Residential Solicitation Licenses are not allowed the half-year fee.

- E. Interstate Commerce: None of the license taxes provided for by this Section shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the tax so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within thirty (30) days after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which shall determine whether the tax fixed by this Chapter is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the City Council a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the City Council is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount. If the regular license tax has already been paid, the City Council shall order a refund of the amount over and above the tax fixed by the City Council. In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature. (1977 Code ' 9-125; 1998 Code)

3-1-8: **RENEWAL OF LICENSE; COMPLAINTS:**

- A. Business licenses will automatically be renewed upon receipt of the renewal fee and proof of a valid professional license, if required. (OM004-99 02/23/99)
- B. Complaints: If the City receives a written complaint about a business during the calendar year during which the business license is in effect, the licensee or applicant shall be given a notice, which shall state the receipt and nature of the complaint. If the business is found to be non-compliant with the business license requirements, the owner will be allowed reasonable time to bring the business into compliance. If the business cannot be brought into compliance, the Land Use Authority may begin the revocation process.

3-1-9: **CONTENTS OF CERTIFICATE LICENSE:** All certificates of license shall be signed by the Mayor, attested by the City Recorder and shall contain the following information:

- A. Name: The name of the person to whom such certificate has been issued.
- B. Amount: The amount paid.
- C. Type: The type of license and the class of such license if licenses are divided into classes.

- D. Term: The term of the license with the commencing date and the date of its expiration.
- E. Location: The place where such business, calling, trade or profession is to be conducted. (1977 Code ' 9-117)

**3-1-10: DISPLAY CERTIFICATE OF LICENSE:**

- A. Posted in Conspicuous Place: Every certificate of license issued under this Title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person, ready to be shown upon request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.
- B. Coin-Operated Machine: In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued. (1977 Code ' 9-118)

**3-1-11: TRANSFER OF LICENSE PROHIBITED:** No license granted or issued under any ordinance of the City shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named unless by permission of the City Council. (1977 Code ' 9-121)

**3-1-12: BRANCH ESTABLISHMENTS:** A separate license must be obtained for each separate place of business in the City and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this Title shall not be deemed to be separate places of business or branch establishments. (1977 Code ' 9-121)

**3-1-13: JOINT BUSINESS LICENSES:** Whenever any person is engaged in two (2) or more businesses at the same location within the City, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license tax to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business. (1977 Code ' 9-122; 1998 Code)

**3-1-14: RECIPROCAL RECOGNITION; DELIVERY OF GOODS:**

- A. Exceptions: No license shall be required for operation of any vehicle or equipment in the City when:
  - 1. Such vehicle is merely passing through the City.

2. Such vehicle is used exclusively in intercity or interstate commerce.
- B. Delivery of Property: No license shall be required by this Title of any person whose only business activity in the City is mere delivery in the City of property sold by him at a regular place of business maintained by him outside the City where:
1. Such person's business is at the time of such delivery licensed by the Utah municipality or county in which such place of business is situated; and,
  2. The authority licensing such business grants to licensees of the City making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this Section; and,
  3. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of the City for compliance with health or sanitary standards prescribed by the City; and,
  4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the said licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.
- C. Certification of Section: The City Recorder shall, at the request of any person, certify a copy of this Section to any municipality or county of the State to which a copy has not previously been certified. (1977 Code ' 9-123)

**3-1-15: EXEMPTIONS TO LICENSE:**

- A. Tax Exempt Business: No license fee shall be imposed under Section 3-1-6 of this Chapter on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purposes which is tax exempt in such activities under the laws of the United States and the State, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State; nor shall any license fee be imposed upon any person not maintaining a place of business within the City who has paid a like or similar license tax or fee to some other taxing unit within the State and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the City and doing business in such taxing unit.
- B. Reciprocal Agreements with Other Agencies: The license assessor and collector may, with approval of the City Council, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper, in effecting the exemption provided for in subsection A of this Section. (1977 Code ' 9-124)
- C. Exception to Business License Required. Pursuant to Utah Code 10-1-203(7) a license or permit is not

required for a business that is operated:

1. Only occasionally; and
  2. By and individual who is under 18 years of age
- D. Exception to Business License Fee. Pursuant to Utah Code 10-1-203(7) a license or permit is not required for a home business unless the combined offsite impact of the home based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.

**3-1-16: REVOCATION OR DENIAL OF LICENSE:**

- A. Failure to Comply; Unlawful Activities: Any license issued pursuant to the provisions of this Code or of any ordinance of the City may be revoked and any application denied by the Land Use Authority because of:
1. The failure of the licensee or applicant to comply with the conditions and requirements of this Code or any ordinance of the City.
  2. Unlawful activities conducted or permitted on the premises where the business is conducted.
- B. Notice to Licensee: Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the Land Use Authority intends to revoke the business license or deny the application to renew, together with the reason or reasons therefore, at a regular or special meeting of the Land Use Authority (which shall be at least 10 days and not more than 30 days from the date notice is sent), and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross-examine witnesses and to present evidence as to why the license should not be revoked or the application denied.
1. The licensee or applicant may appeal the decision of the Land Use Authority as allowed by 2-5-3 of this Code.
- C. Not Applicable to Businesses Not Previously Licensed: The preceding subsection shall not apply to applications for licenses for businesses which have not previously been licensed by the City, and such applicants need only be informed that their application has been denied. (1977 Code ' 9-120)

**3-1-17: Repealed:** Ordinance Modification 011-2004 03/23/04